

REMARKS

This Amendment is filed in response to the Office Action mailed May 12, 2009. In this Amendment, claims 1, 50 and 60-65 are amended, claim 66 is added and claims 6-14, 48, 49, and 51-59 are unchanged. Following entry of this amendment, claims 1, 6-13 and 48-66 shall be pending.

In the Office Action, claims 1, 6-13 and 48-65 have been rejected based on prior art grounds. For the reasons set forth below, these rejections are hereby traversed.

I. REJECTIONS UNDER 35 U.S.C. SECTION 112

The Examiner objected to claims 60-65 under 35 U.S.C. Section 112, second paragraph for being unclear how the stabilizing member is a gasket. While the undersigned disagrees the Examiner's position, the term gasket has been removed in an effort solely to expedite examination of this application.

II. REJECTIONS UNDER 35 U.S.C. SECTION 102

Claims 1, 6-13 and 48-59 are rejected under 35 U.S.C. Section 103(a) as being obvious by U.S. Patent No. 7,240,743 to Buss ("*The Buss Patent*") in view of U.S. Patent No. 6,601,440 to Chuang ("*The Chuang Patent*"). Claims 60-65 are rejected under 35 U.S.C. Section 103(a) as being obvious by *The Chuang Patent* in further view of U.S. Patent 5,408,893 to McLeroy ("*The McLeroy Patent*"). For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

Turning to claim 1, the undersigned disagrees with the Examiner's combination of *The Buss Patent* and *The Chuang Patent*. However, this claim has been amended solely to expedite prosecution of this application. More specifically, claim 1 now recites that a stabilizing member is disposed on an external side surface of the probe body between the top and bottom of the probe body such that said stabilizing member is

positioned beneath the ground when said wireless sensor probe is inserted into the ground.

As the Examiner notes in the most recent Office Action, *The Buss Patent* discloses the use of plates 20 that are fixed into position on ground pegs 20a and form an opening within the portion 24. An auger 27 is used through the opening in the plates and a probe body 32 is inserted into the opening. Once the probe body 32 is inserted in the soil, the plates are removed. In this respect, the plates 20 are used only for installation of the probe body, are never disposed on the probe body, and remain only on the soil surface.

The Examiner argues that *The Buss Patent* discloses gapless contact between the probe body 32 and the plates 20. While the probe body 32 appears to be positioned adjacent the plates 20, the plates 20 are not disposed on the probe body 32, since the probe body 32 would not be able to pass through the aperture in the plates 20 as described in this reference. In other words, if the plates 20 were disposed on the sides of the probe body 30, the device could not function as intended (i.e., the probe body 32 could not be moved from the position of Fig. 4 to the position of Fig. 5)

In contrast, the stabilizing member of the present invention as recited in claim 1 is disposed on the probe body, is not removed after installation, and is positioned beneath the ground when the wireless sensor probe is inserted into the ground. Hence, the sensor probe is not only configured differently than the cited prior art, but can perform functions not possible with the cited prior art. For example, the sensor probe of claim 1 can stabilize the sensor probe from beneath the soil and minimize the flow of water down the probe body.

The remaining references cited by the Examiner fail to make up for the deficiencies of *The Buss Patent*. Hence, it is believed that claim 1 is now allowable.

Turning to claims 6-13, 49, and 60-62 these claims depend from claim 1 and thus for at least the above reasons are also novel and unobvious over the cited prior art.

However, these claims further limit the claimed invention and thus are separately patentable over the cited prior art.

Turning to claim 50, the undersigned disagrees with the Examiner's combination of *The Buss Patent* and *The Chuang Patent*. However, this claim has been amended solely to expedite prosecution of this application. More specifically, claim 50 now recites that a stabilizing member is disposed on an outer side surface of the probe body between the top and bottom of the probe body.

As the Examiner notes in the most recent Office Action, *The Buss Patent* discloses the use of plates 20 that are fixed into position on ground pegs 20a and form an opening within the portion 24. An auger 27 is used through the opening in the plates and a probe body 32 is inserted into the opening. Once the probe body 32 is inserted in the soil, the plates are removed. In this respect, the plates 20 are used only for installation of the probe body, are never disposed on the probe body, and remain only on the soil surface.

The Examiner argues that *The Buss Patent* discloses gapless contact between the probe body 32 and the plates 20. While the probe body 32 appears to be positioned adjacent the plates 20, the plates 20 are not disposed on the probe body 32, since the probe body 32 would not be able to pass through the aperture in the plates 20 as described in this reference. In other words, if the plates 20 were disposed on the sides of the probe body 30, the device could not function as intended (i.e., the probe body 32 could not be moved from the position of Fig. 4 to the position of Fig. 5)

In contrast, the stabilizing member of the present invention as recited in claim 50 is disposed on the probe body, is not removed after installation, and is positioned between the top and bottom of the probe body (instead of at the top). Hence, the sensor probe is not only configured differently than the cited prior art, but can perform functions not possible with the cited prior art. For example, the sensor probe of claim 50 can stabilize the sensor probe from beneath the soil and minimize the flow of water down the probe body.

The remaining references cited by the Examiner fail to make up for the deficiencies of *The Buss Patent*. Hence, it is believed that claim 50 is now allowable.

Turning to claims 51-59 and 63-65 these claims depend from claim 50 and thus for at least the above reasons are also novel and unobvious over the cited prior art. However, these claims further limit the claimed invention and thus are separately patentable over the cited prior art.

New claim 66 has been added is also thought to be patentable for reasons similar to those set forth for claim 1.

CONCLUSION


In view of the foregoing, it is submitted that pending claims 6-14, 48, 49, and 51-65 are now in condition for allowance. Hence, an indication of allowability is hereby requested.

If for any reason direct communication with Applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below listed telephone number.

The Commissioner is authorized to charge any additional fee which may be required in connection with this Amendment to deposit account No. 50-2809.

Respectfully submitted,

Dated: October 19, 2009



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